



1           The court has reviewed the file and finds the findings and recommendations to be  
2 supported by the record and by the Magistrate Judge's analysis. See Swarthout v. Cooke, 562  
3 U.S. \_\_\_, 2011 WL 197627, at \*2 (Jan. 24, 2011) (per curiam).

4           Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the  
5 court has considered whether to issue a certificate of appealability. Before petitioner can appeal  
6 this decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P.  
7 22(b). Where the petition is denied on the merits, a certificate of appealability may issue under  
8 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
9 constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of  
10 appealability indicating which issues satisfy the required showing or must state the reasons why  
11 such a certificate should not issue. See Fed. R. App. P. 22(b). Where the petition is dismissed  
12 on procedural grounds, a certificate of appealability “should issue if the prisoner can show:  
13 (1) ‘that jurists of reason would find it debatable whether the district court was correct in its  
14 procedural ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition  
15 states a valid claim of the denial of a constitutional right.’” Morris v. Woodford, 229 F.3d 775,  
16 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 120 S.Ct. 1595, 1604 (2000)).  
17 For the reasons set forth in the Magistrate Judge’s findings and recommendations, the court finds  
18 that issuance of a certificate of appealability is not warranted in this case.

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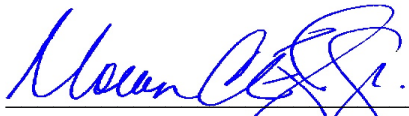
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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed February 3, 2011, are adopted in full;
2. Petitioner's petition for a writ of habeas corpus (Doc. 1) is dismissed;
3. The court declines to issue a certificate of appealability; and
4. The Clerk of the Court is directed to enter judgment and close this file.

IT IS SO ORDERED.

Dated: March 9, 2011

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE